IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 669 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LALITBHAI BABUBHAI RAVAL - Petitioner(s)
Versus
MEDICAL SUPERINTENDENT CIVIL HOSPITAL & 3 - Respondent(s)

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Appearance :
MR PS PATEL for Petitioner(s) : 1,
MR KRUNAL D PANDYA, AGP for Respondent(s) : 1 - 3.
DS AFF.NOT FILED (R) for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 03/04/2007

ORAL JUDGMENT

It is the grievance of the petitioner that despite the respondents having entered into agreement with him for appointing him contractor for

providing security guards, the assignment has been given to other agency. It is, therefore, prayed that the respondents be directed to assign the said contract to the petitioner.

1.1. The petitioner is private agency in the name and style of 'Blackcat Security Guards' and it is in the business of providing security guards to Government and private institutions. It is registered under the provisions of the Shops and Establishments Act. In pursuance of the tender notice dated 27/8/ 1998, petitioner filed the tender. The petitioner was summoned for negotiation. After negotiations, respondent no. 3 resolved to entrust the contract to the petitioner on 29/1/2000. In the resolution it was stated that after careful consideration Government had decided to entrust the contract for security for Civil Hospital to the petitioner. It is the say of the petitioner that even after waiting for long, nothing was heard from the respondents. Hence, the petitioner entered into correspondence and requested respondent no. 1 to take decision pursuant to the said resolution. However, the efforts of the petitioner proved in vain. It is averred by the petitioner that later on it was learnt that the contract of security was given to M/s. Gujarat Industrial Security Force. In view of the same, the petitioner has filed this petition with a prayer that the contract be awarded to him. It is also averred that as per the condition of the tender, the petitioner had deposited a sum of Rs.50,000/- which is still lying with the respondents.

1.2. The petition has been resisted by the respondents by filing affidavit-in-reply. It appears from the affidavit that respondent no. 4, namely M/s. Gujarat Industrial Security Force was set-up by the Government in Industries & Mines Department and their services were availed of by different Government institutions. Of-course it shows that at initial stage, since some of the members of the said society, who discharged the duty of guard, had gone on strike, the Civil Hospital had recommended the concerned authority to black-list them, but later on it was decided to hand over the contract to the said agency in preference to the private agency.

2. It appears from the pleadings of these proceedings that the petitioner is seeking enforcement of contractual obligations, which normally cannot be entertained in a petition under Article 226 of the Constitution of India. Apart from that, when the discretion has been exercised by the respondents in favour of a Government agency to act as security guards, no fault can be found with it, evenwhen at initial stage some resolution was passed resolving to entrust the contract to the petitioner. Even the term of the contract has got over long back. In view of the same, this petition has virtually become infructuous. For the aforesaid reasons, I do not find any merit in this petition and it is dismissed. At this stage, it is stated by Mr. Patel that deposit amount is still lying with the respondents and the respondents be directed to refund it to the petitioner. The request appears to be reasonable. Hence, the

respondents nos. 1 and 3 are directed to refund the amount of deposit, if not already refunded to the petitioner and if there is no valid reason to withhold it, within three months from the date of this judgment. Rule is discharged with no order as to costs.

[Akshay H Mehta, J.]

* Pansala.